

REMARKS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 2-3, 5-7, 9, and 11 are pending. No claims are canceled, amended, or added. Thus, no new matter is added.

In the outstanding Office Action, Claims 2-3, 5-7, 9, and 11 were rejected under 35 U.S.C. § 103(a) as unpatentable over Agresta et al. (U.S. Publication No. 2002/0091848 A1) in view of Hegde et al. (U.S. Publication No. 2002/0007418 A1) and further in view of Biddle et al. (U.S. Publication No. 2002/0107809 A1).

Applicant respectfully traverses the rejection of Claims 2-3, 5-7, 9, and 11 under 35 U.S.C. § 103(a), and submits that the combination of Agresta, Hegde and Biddle fails to render obvious all features recited in the claims.

Briefly summarizing, Claim 2 recites a content delivery method for a content delivery system for delivering content from a content delivery apparatus to a content processing apparatus by way of a network. The method includes, *inter alia*, presenting a list of a plurality of sets of content including at least a set of content to be delivered by streaming and a set of content to be delivered by downloaded files at a content processing apparatus. The method further includes inputting specifying information specifying the set of content, from the sets of content on the list, to be delivered to the content processing apparatus from the content delivery apparatus. The method also includes *receiving*, by the content processing apparatus from the content delivery apparatus, *a startup file specifying streaming or downloaded file as a method of content delivery, said startup file corresponding to a license of the specified set of content*. Further, the method includes automatically acquiring by the content processing apparatus, without receiving a user input selecting streaming or downloaded file as the method of content delivery, the set of content delivered from the

content delivery apparatus according to the startup file.

The outstanding Office Action acknowledges that the combination of Agresta and Hegde fails to teach or suggest receiving a startup file specifying streaming or downloaded file as a method of content delivery, as recited in Claim 2.<sup>1</sup> However, the outstanding Office Action asserts that Biddle cures this acknowledged deficiency of the combination of Agresta and Hegde. Specifically, the outstanding Office Action asserts that paragraph [0098] of Biddle describes a “license file” which is asserted to be the same as the startup file specifying streaming or downloaded file as a method of content delivery, recited in Claim 2.

Applicant respectfully disagrees, and submits that Biddle does not teach or suggest *receiving, by the content processing apparatus from the content delivery apparatus, a startup file specifying streaming or downloaded file as a method of content delivery*. In fact, Biddle describes a license file containing information “such as, for example, the machine ID for the user computer 30 running the application, name of the product, product number, license type, expiration date, options, level, version ID, and/or a digital signature.”<sup>2</sup> Thus, Biddle describes a license file which contains various pieces of information pertaining to the license of a software product, but which does not include information pertaining to the method of content delivery, such as streaming or downloaded file.

Moreover, Biddle describes **only downloading** as any method of delivering licensed software from a software server to a user,<sup>3</sup> and doesn’t contemplate any other possible method of delivering software. **Downloading** software is consistent with the overall objective of Biddle, which is to deliver **software** that a user can execute locally on his computer. One of ordinary skill in the art would recognize that a different delivery method, such as streaming, would be inapplicable to the software delivery approach described by

---

<sup>1</sup> Outstanding Office Action, page 5, lines 6-7.

<sup>2</sup> Biddle, paragraph [0098].

<sup>3</sup> Biddle, paragraphs [0016], [0017], [0049], [0054], [0072], [0086], [0087], [0091], [0092], [0093], [0094], [0106], [0107], [0112], and [0118].

Biddle, because executing software requires the entire executable to be present at a processor, before it can be executed.

In summary, Biddle describes (1) a license file which includes various pieces of information, but none of which is information specifying streaming or downloaded file as a method of content delivery; and (2) downloading files as the **only method of content delivery**. Therefore, Biddle fails to teach or suggest delivery method information contained in the license file. Further, because only a single method of software delivery is contemplated by Biddle, there is no reason to modify the license file of Biddle with additional information specifying a method of software delivery.

Thus, Biddle fails to cure the acknowledged deficiency of the combination of Agresta and Hegde, and the combination of Agresta, Hegde, and Biddle fails to teach or suggest *receiving, by the content processing apparatus from the content delivery apparatus, a startup file specifying streaming or downloaded file as a method of content delivery*, as recited in Claim 2.

Independent Claims 3, 6, 7, and 9, while directed to alternate embodiments, all recite the feature of a startup file specifying streaming or downloaded file as a method of content delivery. Accordingly, Applicant respectfully submits that Claims 2, 3, 6, 7, and 9 (and all associated dependent claims) patentably define over any proper combination of Agresta, Hegde, and Biddle, and request that the rejections of Claims 2-3, 5-7, 9, and 11 under 35 U.S.C. § 103(a) be withdrawn.

Consequently, in view of the above discussion, Applicant respectfully submits that the present application is in condition for allowance, and an early action favorable to that effect is earnestly requested. Should the Examiner deem that any further action is necessary in order to place this application in even better form for allowance, the Examiner is encouraged to contact Applicant's undersigned representative at the below listed telephone number.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.

Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Andrew T. Harry  
Registration No. 56,959

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

I:\ATTY\GSD\27s\279606us\279606us-AM DUE 10-29-08.DOC